# A Wholly False Sense of Security: *Wilson v. Seiter* and Jail Litigation

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***"A prisoner alleging that the conditions of his confinement violate the Eighth Amendment's prohibition of cruel and unusual punishment must show deliberate indifference on the part of the responsible prison officials." (Wilson v. Seiter, No. 89-***7376,6/17/91) Excerpted from ***Criminal Law Reporter,*** Vol. 49, no. 12, June 19, 1991.

***The U.S. Supreme Court's decision in Wilson v. Seiter has been the subject of considerable discussion among correctional administrators. Following is one jail administrator's response to the decision.***

Justice Antonin Scalia, writing for the majority in remanding an appeals court decision regarding conditions of confinement, noted that the state of mind of these involved in the specific conditions was an appropriate area of inquiry. He suggested that the conditions themselves might not rise to an Eighth Amendment violation unless a standard of "deliberate indifference" or wantonness could be shown. The most unusual thought process in the majority opinion may suggest that a broad range of prison and jail conditions might be sustained, even if wholly deficient, in the absence of malicious intent by the administrator or the system. Some have even suggested that future constitutional challenges to prison and jail conditions may be defended by reference to insufficient funding by state or local government. I do not concur with this interpretation, nor do I believe that ***Wilson v. Seiter*** retreats significantly from twenty years of court-developed doctrine of appropriate jail and prison conditions and administrative responsibility for same.

Twenty years of federal court examination of jail and prison conditions, policies, behaviors, and treatment issues have not been swept away. Let us assume that some major conditions of confinement cases may be made somewhat more difficult to prove under the "deliberate indifference" doctrine. However, this is not likely to inhibit successful challenges to hundreds of jail and prison policies and procedures that are well established in caselaw and practice as well as in the standards of the field and profession. It is well to remember that the vast majority of federal cases are settled out of court and are not the subject of formal opinions. They are settled out of court because government units recognize that a court will not sustain unconstitutional practices. The hundreds of cases that address injuries to inmates through assaults, self-inflicted injuries or suicide, institutional failure to meet prevailing standards of health care practice, and the like will continue to fall within the area of substandard practice.

Prevailing professional standards accepted throughout our profession require safe facilities, humane conditions of incarceration, appropriate standards of medical and mental health care, protection of inmates from abuse, and appropriate staff conduct. Any administrator who believes that ***Wilson v. Seiter*** diminishes the constitutional responsibilities inherent in administration will find little protection in the "deliberate indifference" standard offered by the Court. A thoughtful and conservative jurist, Justice Byron White, reminded all administrators several years ago in *Wolff v. McDonnell* 418 U.S. 359 (1974) that 'There is no iron curtain drawn between the Constitution and the prisons of this country." Case law extended these doctrines to jails, and conscientious improvements in jail practices and the responsibility of administrators for same have not been undone. Quality correctional practices will continue to reduce the likelihood of lawsuits.

***Forfurther discussion, contact Arthur Wallenstein, (206) 296-1268. The text of the opinion is available from the NIC Information Center.*** ■